

AGREEMENT FOR WIRELESS E9-1-1 SERVICE ACCESS

by and between
between one or more of

**Illinois Bell Telephone Company,
Indiana Bell Telephone Company Incorporated d/b/a Ameritech Indiana,
Michigan Bell Telephone Company d/b/a Ameritech Michigan,
Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company,
The Ohio Bell Telephone Company,
Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company,
The Southern New England Telephone Company,
Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company,
Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin**

and

AT&T WIRELESS SERVICES, INC.

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Pricing Exhibit

Definitions Exhibit

AGREEMENT FOR WIRELESS E9-1-1 SERVICE ACCESS

This Agreement ("Agreement") by and between SBC-13STATE, as defined below, and AT&T Wireless Services, Inc. ("AWS"), collectively the Parties, , establishes the terms and conditions under which SBC-13STATE will provide and AWS will use necessary facilities and databases for the provision of wireless E9-1-1 services to AWS wireless end-users. This Agreement becomes effective as of the date executed by the last Party to sign ("Effective Date").

RECITALS

- A. SBCCommunications, Inc. ("SBC") is the holding company that owns Incumbent Local Exchange Carriers, as defined by the Act, authorized to provide certain telecommunications services within the states of Illinois, Indiana, Michigan, Wisconsin, Nevada, Ohio, California, Connecticut, Texas, Missouri, Oklahoma, Kansas and Arkansas.
- B. As used herein SBC-13STATE means the applicable SBC owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- C. AWS is a provider of Commercial Mobile Radio Services ("CMRS") and provides telecommunications services within the SBC-13STATE service territory.
- D. SBC-13STATE desires to provide and AWS desires to use certain services and facilities of SBC-13STATE in order to effect the provision of wireless E9-1-1 service as described more fully in this Agreement.
- E. The Federal Communications Commission (FCC) has, in FCC Docket 94-102, ordered that providers of CMRS make available certain wireless E9-1-1 services, and has established clear and certain deadlines by which said service must be available.

NOW, THEREFORE, in consideration of the mutual promises and the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, AWS and SBC-13STATE hereby agree as follows:

1. Definitions and Construction

- 1.1 Defined Terms.** Capitalized terms used in this Agreement shall have the respective meanings specified in Definitions Exhibit or as defined elsewhere in this Agreement.

1.2 Interpretation.

1.2.1 The definitions in Definitions Exhibit shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The words shall” and “will” are used interchangeably throughout this Agreement and the use of either connotes a mandatory requirement. The use of one or the other shall not mean a different degree or right or obligation for either Party.

1.2.2 References herein to sections and exhibits shall be deemed to be references to Sections of, and Exhibits to, this Agreement unless the context shall otherwise require.

1.2.3 The headings of the Sections and Exhibits are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

1.2.4 Unless the context shall otherwise require, any reference to any agreement, other instrument (including SBC-13STATE, AWS or other third party offerings, guides or practices), statute, regulation, rule or tariff is to such agreement, instrument, statute, regulation, rule or tariff as amended and supplemented from time to time (and, in the case of a statute, regulation, rule or tariff, to any successor provision).

1.3 Joint Work Product. This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

2. Wireless Emergency Number and Performance Service.

2.1 Cooperation and Level of Performance.

a. The Parties will work together to facilitate the prompt, reliable and efficient interconnection of AWS' network with SBC-13STATE's E9-1-1 platforms to enable AWS to provide E9-1-1 Service to an AWS Wireless End User.

b. SBC-13STATE shall provide AWS with access to its E9-1-1 services and facilities that is at least equal in quality to the access SBC-13STATE provides to any other wireless carrier, including its affiliates. In addition, SBC-13STATE shall provide, at a minimum, the grade of service identified in Section 2.6.3.

- 2.2 Service Provisioning.** AWS will provide E9-1-1 Service to its AWS Wireless End Users in part through interconnection with the E9-1-1 network systems established and maintained by SBC-13STATE. The Parties will route 9-1-1 Calls to the Designated, Default, or Alternate PSAP in a manner that will enable the 9-1-1 Attendant to communicate with the AWS Wireless End User and to determine the appropriate Phase I or Phase II Data.
- 2.3 Condition to Performance.** Notwithstanding anything contained herein to the contrary, the respective obligations of the Parties contained in Sections 2.1 through 2.3 of this Agreement are not effective as to a particular PSAP until AWS notifies SBC-13STATE that it has received a request from a PSAP (“Requesting PSAP”) to provide E9-1-1 Service within a jurisdiction served by SBC-13STATE. Upon receipt of such a notice by SBC-13STATE, the respective obligations of the Parties contained in Sections 2.1 through 2.3 of this Agreement shall become immediately effective as to the Requesting PSAP.
- 2.4 Phase I and II Requests** - When AWS receives a new E9-1-1 Phase I or II PSAP request, AWS shall notify SBC-13STATE Industry Markets 9-1-1 Account Manager as soon as practicable within thirty (30) days of AWS receiving the request. This notification provision does not apply to E9-1-1 Phase I or II requests that AWS has already communicated to SBC-13STATE.
- 2.5 Routing Responsibilities.** The Parties shall complete calls from AWS Wireless End Users to the appropriate PSAP as set forth in this Section.
- 2.5.1 Routing Responsibilities of AWS.** AWS shall route a 9-1-1 Call as follows:
- a. AWS shall route the voice portion of a call from an AWS Wireless End User’s Wireless Handset to the Cell Site and then to the MSC;
 - b. AWS shall assign an ESRK to that call for the purpose of identifying the appropriate PSAP to which the call should be directed based on the geographic location of the Cell Sector;
 - c. AWS shall then route the voice portion of the 9-1-1 Call and its corresponding ESRK to the appropriate SBC-13STATE Selective Router. Depending on the network service configurations, if SS7 signaling is in place between the MSC and the Selective Router, AWS may route the ESRK and the Call Back number to the appropriate Selective Router.
 - d. AWS will be responsible for transmitting the appropriate Phase I or Phase II data to a non-SBC-13STATE ALI Database.

2.5.2 Routing Responsibilities of SBC-13STATE. SBC-13STATE shall route a 9-1-1 Call as follows:

- a. SBC-13STATE shall route the 9-1-1 Call and its corresponding ESRK from the Selective Router to the Designated PSAP. If SBC-13STATE is not able to deliver a 9-1-1 Call to the Designated PSAP, SBC-13STATE will route the 9-1-1 Call to the Default PSAP or to the Alternate PSAP, as appropriate. The routing of overflow calls will be handled by SBC-13STATE in the manner prescribed by the appropriate PSAP. In addition to the foregoing, if SS7 signaling (or other facility with 20-digit signaling capability) is in place between the MSC and Selective Router and AWS delivered the ESRK and the Call Back Number with the voice portion of the 9-1-1 Call, SBC-13STATE shall also route the ESRK and the Call Back Number with the voice portion of the 9-1-1 Call to the appropriate PSAP.
- b. SBC-13STATE shall also route the appropriate Phase I or Phase II data as described in Section 2.7.

2.6 Trunking and Facility Requirements.

2.6.1 Voice Path from the MSC to the Selective Router. SBC-13STATE shall provide, upon receiving an order from AWS, a minimum of two (2) dedicated trunks from the MSC to the Selective Router for the provision of E9-1-1 Service, which provides access to all subtending PSAPs. To minimize the possibility of service disruption due to trunk failure, AWS at its option may request that one of the dedicated trunks be routed from the MSC to the Selective Router over a diverse path, where such diversity is available. Prices for such dedicated trunks are set forth in the Pricing Exhibit. All trunks shall comply with the following requirements:

- a. The dedicated trunks shall be, at a minimum, DS-0 level trunks configured as part of a digital, signal level 1 (1.544 Mbps) interface in which all 9-1-1 traffic will be presented.
- b. The trunk configuration shall use either CAMA or SS7 signaling, as requested by AWS and where SS7 is available.
- c. Regardless of configuration, the trunks must be capable of transporting the Code necessary to support the use of Telecommunications Devices for the Deaf ("TTY/TDDs").
- d. SBC-13STATE will provide 9-1-1 order numbers and circuit identification codes in advance of the service due date.

2.6.2 Data.

- a. SBC-13STATE shall provide or permit AWS to terminate necessary circuits from a non-SBC-13STATE ALI Database to each SBC-13STATE ALI Database. To implement Phase II service, the data connection to the SBC-13STATE ALI Database, where SBC-13STATE is the designated ALI database provider, will be through one or more 56-64Kbps or Fractional T1 frame relay circuit. Such circuit may be ordered from SBC-13STATE, an affiliate, or third-party vendor.
- b. SBC-13STATE shall provide the necessary data service units and router equipment at each SBC-13STATE ALI Database to support ALI Database Steering.
- c. E2+ protocol will be used for data exchange, unless the Parties mutually agree to use another protocol in a specific location that supports both Phase I and Phase II data.
- d. For Phase II applications, SBC-13STATE will coordinate with AWS and accordingly set any ALI Database timer which is under the control of SBC-13-STATE in such a way as to ensure sufficient time for the relevant location technology to respond to PSAP requests with the relevant initial location or updated location results.

2.6.3 Grade of Service. AWS shall order, and SBC-13STATE shall provide sufficient 9-1-1 trunks from the MSC to the Selective Router to provide a grade of service equal to P.01, where technically feasible, or, upon written notice to AWS, the specified minimum grade of service (“Service Standard”) required by the Requesting PSAP.

2.7 Database (SBC-13 STATE Responsibilities)

2.7.1 Where SBC 13-STATE is the 9-1-1 service provider and AWS deploys a CAS or Hybrid-CAS Solution utilizing SBC 13-STATE E9-1-1 DBMS:

- a. SBC 13-STATE shall store the AWS’ ALI records in the electronic data processing database for the E9-1-1 DBMS.
- b. SBC 13-STATE shall coordinate access to the SBC 13-STATE E9-1-1 DBMS for the initial loading and updating of AWS ALI records.
- c. SBC 13-STATE’s ALI database shall accept electronically transmitted files that are based upon NENA standards.
- d. SBC 13-STATE will submit AWS’ ALI records in the E9-1-1 DBMS. SBC 13-STATE will then provide AWS an error and

status report. This report will be provided in accordance with the methods and procedures described in the documentation to be provided to the AWS by SBC 13-STATE.

- e. SBC 13-STATE shall provide the necessary Master Street Address Guide (MSAG) and monthly updates of said MSAG to AWS, upon receipt of the initial MSAG from the appropriate E9-1-1 Authority. MSAG shall contain information associated with Wireless E9-1-1 service to allow the upload of database records to support the deployment of a CAS or Hybrid CAS solution.

2.7.2 Where SBC 13-STATE is the 9-1-1 service provider, and AWS deploys an NCAS solution:

- a. AWS's designated third-party provider shall perform the above database functions, to the extent required for an NCAS implementation.
- b. SBC 13-STATE will provide the most recent copy of the MSAG received from the appropriate E9-1-1 Authority, to be utilized for the development of Host ALI Records.

2.7.3 ALI Database Steering.

In an NCAS solution, SBC-13STATE shall provision its ALI Database so it shall perform ALI Database Steering in the following manner:

- a. When a PSAP queries a SBC-13STATE ALI Database with an ESRK assigned to AWS, the SBC-13STATE ALI Database will recognize the query as one initiated in response to a 9-1-1 Call placed by an AWS Wireless End User;
- b. The SBC-13STATE Database shall use the ESRK to route the foregoing PSAP query to the non-SBC-13STATE ALI Database designated by AWS;
- c. SBC-13STATE shall comply with the protocol as provided in section 2.2.2(c) for the ALI-to-ALI procedures to query the non-SBC-13STATE ALI Database designated by AWS;
- d. The SBC-13STATE ALI Database shall receive the Host ALI Record from the non-SBC-13STATE ALI Database;

- e. The SBC-13STATE ALI Database shall then format the Host ALI Record in accordance with the receiving PSAP's request and transmit such data to the PSAP within a time period that is at least equal to the fastest transmission rate in response to any other query to the SBC-13STATE ALI Database for 9-1-1 calls originating from carriers other than AWS, and in such a manner as to allow the 9-1-1 Attendant to view the data in a format that complies with the receiving PSAP's request.

2.7.4 ESRK Provisioning.

In an NCAS solution, AWS and SBC-13STATE shall provide for the automated input and periodic updating of their respective E9-1-1 databases for the provisioning of ESRKs, including but not limited to, placement of static ESRKs in the SCP, the Selective Router Database and ALI Database(s), when applicable. SBC-13STATE shall supply to AWS ESRKs to allow AWS to populate its MSCs and relevant databases with this data.

2.8 Database (AWS Responsibilities)

2.8.1 Where SBC-13STATE is the 9-1-1 service provider, and AWS deploys a CAS or Hybrid CAS Solution utilizing SBC-13STATE E9-1-1 DBMS:

- a. AWS or its representatives shall be responsible for providing AWS' Host ALI Records to SBC-13STATE, for inclusion in SBC-13STATE's DBMS on a timely basis.
- b. AWS or its agent shall provide initial and ongoing updates of AWS' Host ALI Records that are in electronic format based upon established NENA standards.
- c. AWS shall adopt use of a Company ID on all AWS ALI Records in accordance with NENA standards. The Company ID is used to identify the dial-tone provider.
- d. AWS is responsible for providing updates to SBC-13STATE ALI database; in addition, AWS is responsible for correcting any errors that may occur during the entry of their data as reflected on the status and error report.

2.8.2 Where SBC-13STATE is the 9-1-1 service provider, and AWS deploys an NCAS solution:

- a. AWS' designated third-party provider shall perform the above database functions to the extent required for an NCAS solution.

- b. AWS' designated third party shall be responsible for ensuring AWS' Host ALI Records are submitted to SBC-13STATE, for inclusion in SBC-13STATE's DBMS, on a timely basis.
- c. AWS 's third-party provider shall provide initial and ongoing updates of AWS' Host ALI Records that are in electronic format based upon established NENA standards.

2.9 Alternative ALI Database Provider. In the event that a third-party ALI Database provider, other than SBC-13STATE, offers ALI Database service, and AWS elects to use that third-party database provider for E9-1-1 service to its wireless end users, then the above described Database Responsibilities shall not apply to SBC-13STATE.

3. Compensation

- 3.1** AWS shall compensate SBC-13STATE for the elements described in the Pricing Exhibit that are ordered and received at the rates set forth in the Pricing Exhibit on a going forward basis beginning as of the Effective Date of this Agreement.
- 3.2** There shall be no true up or price adjustments for elements charged before the Effective Date under a prior agreement or tariff for wireless 9-1-1 implementations. To the extent that any rate in the Pricing Exhibit is stated as a rate contained in a particular tariff, that particular tariff must be identified in the Pricing Exhibit, along with the specific rate for that element.
- 3.3** In addition, the Parties acknowledge that the elements set forth in the Appendix are based on the demarcation point for pricing allocation set forth in the *Letter from Thomas J. Sugrue, Chief Wireless Telecommunications Bureau, FCC to Marlys R. Davis, E-911 Program Manager, King County E-911 Program Office, dated October 31, 2001* ("King County Letter" and affirmed in *The Order on Reconsideration In the matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems Request of King County, Washington* (FCC 02-146). In the event that a particular state commission or court with appropriate jurisdiction orders a pricing allocation that differs from the *King County Letter* allocation, the Parties agree to revise the Pricing Exhibit accordingly, including any true-ups or true-downs should the order require that the pricing allocation be retroactively effective to a certain date. By complying with such state order, neither Party waives its right to pursue its legal remedies, including, but not limited to challenging the legality of the state order. Further, the Parties agree to abide by any final FCC order upholding or revising that particular state pricing allocation.
- 3.4** In the event that SBC-13STATE files a new or revised tariff after the Effective Date ("New Tariff") containing revised rates for one or more of the elements described in the Pricing Exhibit that vary from rates contained in a prior approved

tariff or the tariffed rates specified in the Pricing Exhibit, then SBC-13STATE shall give AWS notice of the filing as required by state law to be given to affected persons. When the revised rates in the New Tariff become effective, such rates shall apply on a going forward basis from the effective date of the revised rates. The foregoing notwithstanding, AWS shall have no obligation to pay any termination liability charge or other similar charge to SBC-13STATE even if such charge is included in the New Tariff or any other SBC-13STATE tariff. This section applies to rates in terms of compensation only and no state tariff will modify the terms and conditions of this Agreement.

- 3.5** The comprehensive and exclusive nature of the Pricing Exhibit does not negate any charges for a 56-64 Kbps or Fractional T1 frame relay circuit described in Section 2.6.2.a., should AWS, or its designated vendor, elect to purchase such circuit from SBC-13STATE.

4. Maintenance and Trouble Notification.

4.1 Maintenance.

SBC-13STATE shall provide AWS with the same level of maintenance support as SBC-13STATE provides any other wireless carrier, including its affiliates, in accordance with standards that SBC-13STATE uses and/or which are required by law, regulatory agency, or by SBC-13STATE's own internal procedures, whichever are the most rigorous. These standards shall apply to the quality of the technology, equipment, facilities, processes, and techniques (including, but not limited to, such new architecture, equipment, facilities, and interfaces as SBC-13STATE may deploy) that SBC-13STATE provides to AWS under this Agreement.

SBC-13STATE shall provide AWS with a minimum of ninety (90) days advance notification of any of the following:

- a. Modifications or changes to any Selective Router that services an AWS Wireless End User that will require any modification or change to the AWS Wireless System necessary to maintain E9-1-1 Service.
- b. Modifications or changes to any ALI Database to which AWS has terminated any circuits including, but not limited to, any changes that materially affect the manner in which the ALI Database receives, stores or transmits data, and that will require any modification or change to the AWS Wireless System necessary to maintain E9-1-1 Service.
- c. Selective Router moves or PSAP rehomings.

4.2 Trouble Notification and Service Restoration.

In order to facilitate trouble reporting and to coordinate the repair of facilities and trunks provided by the Parties, AWS and SBC-13STATE shall provide a SPOC (“Single Point of Contact”) for E9-1-1 Service to report maintenance issues and trouble reports twenty four (24) hours a day and seven (7) days a week. SBC-13STATE and AWS shall provide additional escalation contact lists with appropriate personnel. These contact lists shall include name, department, title, phone number and fax number for each person. AWS and SBC-13STATE agree to exchange up-to date lists as reasonably necessary.

AWS and SBC-13STATE shall call such telephone numbers to report trouble with facilities and trunks to inquire as to status of trouble reports and to escalate trouble resolution.

SBC-13STATE shall respond to E9-1-1 trouble reports on a priority basis over non-E9-1-1 trouble reports. Restoration of service or repair shall begin in the order received by SBC-13STATE provided, however, that those E9-1-1 trouble reports that more severely affect service shall receive priority over other E9-1-1 trouble reports regardless of the order received by SBC-13STATE.

In the event either SBC-13STATE’s ALI Database, when applicable, or Selective Router shall become substantially or completely inoperable, SBC-13STATE will provide AWS with prompt notification of either occurrence; provided, however, that if AWS learns of any malfunction in the facilities or circuits of SBC-13STATE that results in any material or substantial failure to route 9-1-1 Calls in the manner required by this Agreement it shall also promptly notify SBC-13STATE of such malfunction.

4.3 Equipment/Circuit Monitoring. Each party will monitor the equipment and circuits it provides for E9-1-1 Service at all times to discover errors, defects and malfunctions in their respective networks. Monitoring of circuits will be conducted to the individual trunk level. SBC-13STATE will monitor trunks between the Selective Router and all associated PSAPs. The respective monitoring obligations of the Parties shall consist of monitoring that is at least equal in quality to the monitoring each Party provides to itself, its Affiliates, and any other carrier.

4.4 Testing. Prior to the initiation of any service under this Agreement, the Parties shall establish and fully test all data and voice links between the MSC and Selective Router through to the PSAP and between the SCP and the ALI Database, when applicable.

5. **Disclaimer.** EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THE ACT, FCC OR COMMISSION REQUIREMENTS, AND THIS AGREEMENT, THE PARTIES MAKE NO REPRESENTATIONS OR WARRANTIES CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

6. **Term and Termination.**

6.1 **Term.** The initial term of this Agreement shall be two (2) years (the “Initial Term”) which shall commence on the Effective Date. This Agreement shall automatically be renewed for additional one (1) year periods (each, a “Renewal Term”); unless a Party delivers to the other Party written notice of termination of this Agreement at least one hundred twenty (120) days prior to the expiration of the Initial Term or a Renewal Term;. Notwithstanding termination of this Agreement, its terms and conditions shall remain in effect until replaced by another agreement covering the same subject matter.

6.2 **Default.** When a Party is in default of a material term or condition of this Agreement (“Defaulting Party”), the non-defaulting Party shall provide written notice to such Defaulting Party of such violation prior to commencing the dispute resolution procedures set forth in Section 11.3 and it shall be resolved in accordance with the procedures established in Section 11.3, provided, however, that if the dispute is not resolved in accordance with the procedures established in Section 11.3 and the Defaulting party has not cured the default within sixty (60) days after the appointment of a designated representative, the non-defaulting party may terminate this Agreement in whole or in part in the event of such default

6.3 **Payment Upon Expiration or Termination.** In the case of the expiration or termination of this Agreement for any reason, each of the Parties shall be entitled to all unpaid amounts and expenses accrued or incurred under this Agreement prior to such expiration or termination.

7. **Indemnification.**

7.1 **General Indemnity Rights.** A Party (the “Indemnifying Party”) shall defend and indemnify the other Party, its officers, directors, employees and permitted assignees (collectively, the “Indemnified Party”) and hold such Indemnified Party harmless against:

- 7.1.1** any loss arising from such Indemnifying Party's use of services offered under this Agreement, which involve pending or threatened claims, actions, proceedings or suits for libel, slander, invasion of privacy, or infringement of Intellectual Property rights arising from the Indemnifying Party's own communications or the communications of such Indemnifying Party's Customers;
- 7.1.2** any loss arising from claims for actual or alleged infringement of any Intellectual Property right of a third person to the extent that such loss arises from an Indemnified Party's or an Indemnified Party's Customer's use of a service provided under this Agreement; provided, however, that an Indemnifying Party's obligation to defend and indemnify the Indemnified Party shall not apply in the case of (i) (A) any use by an Indemnified Party of a service (or element thereof) in combination with elements, services or systems supplied by the Indemnified Party or persons other than the Indemnifying Party or (B) where an Indemnified Party or its Customer modifies or directs the Indemnifying Party to modify such service and (ii) no infringement would have occurred without such combined use or modification;
- 7.1.3** any and all penalties imposed upon the Indemnifying Party's failure to comply with the Communications Assistance to Law Enforcement Act of 1994 ("CALEA") and, at the sole cost and expense of the Indemnifying Party, any amounts necessary to modify or replace any equipment, facilities or services provided to the Indemnified Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA; and
- 7.1.4** any loss arising from such Indemnifying Party's failure to comply with Applicable Law.
- 7.1.5** any claim or loss related to the subject matter of this Appendix alleged by a Customer of the Indemnifying Party unless the claim or loss was caused by the gross negligence or willful misconduct ("Fault") of the Indemnified Party, its employees, agents or subcontractors; provided, however, that (1) with respect to employees or agents of the Indemnified Party, such Fault occurs while performing within the scope of their employment, (2) with respect to subcontractors of the Indemnified Party, such Fault occurs in the course of performing duties of the subcontractor under its subcontract with the Indemnified Party, and (3) with respect to the Fault of employees or agents of such subcontractor, such Fault occurs while performing within the scope of their employment by the subcontractor with respect to such duties of the subcontractor under the subcontract.
- 7.2** Notwithstanding the foregoing, the provisions set forth in Section 7 are not intended to create any third party beneficiaries nor are the provisions intended to

expand the scope of liability of either party should Applicable Law in the state where service is being provided serve to limit the liability of 911 service providers or telephone companies in the provisioning, implementation, maintenance or administration of 911 service

8. **Indemnification Procedures.** Whenever a claim shall arise for indemnification under Section 7, the relevant Indemnified Party, as appropriate, shall promptly notify the Indemnifying Party and request the Indemnifying Party to defend the same. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such claim. The Indemnifying Party shall have the right to defend against such liability or assertion in which event the Indemnifying Party shall give written notice to the Indemnified Party of acceptance of the defense of such claim and the identity of counsel selected by the Indemnifying Party. Until such time as Indemnifying Party provides such written notice of acceptance of the defense of such claim, the Indemnified Party shall defend such claim, at the expense of the Indemnifying Party, subject to any right of the Indemnifying Party, to seek reimbursement for the costs of such defense in the event that it is determined that Indemnifying Party had no obligation to indemnify the Indemnified Party for such claim. The Indemnifying Party shall have exclusive right to control and conduct the defense and settlement of any such claims subject to consultation with the Indemnified Party. The Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement. At any time, an Indemnified Party shall have the right to refuse a compromise or settlement and, at such refusing Party's cost, to take over such defense; provided that in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the relevant Indemnified Party against, any cost or liability in excess of such refused compromise or settlement. With respect to any defense accepted by the Indemnifying Party, the relevant Indemnified Party shall be entitled to participate with the Indemnifying Party in such defense if the claim requests equitable relief or other relief that could affect the rights of the Indemnified Party and also shall be entitled to employ separate counsel for such defense at such Indemnified Party's expense. If the Indemnifying Party does not accept the defense of any indemnified claim as provided above, the relevant Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party. Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such claim and the relevant records of each Party shall be available to the other Party with respect to any such defense, subject to the restrictions and limitations set forth in Section 9.1.

9. Limitation of Liability.

- 9.1** Except for indemnity obligations under Section 7, the recklessness or intentional misconduct of a Party and except as may otherwise be provided for herein, the Parties shall not be liable to the other, its End Users or its E9-1-1 calling parties or any other parties or persons for any loss arising out of the provision of E9-1-1 Service or any errors, interruptions, defects, failures or malfunctions of E9-1-1 Service, including any and all equipment and data processing systems associated therewith. Damages arising out of such interruptions, defects, failures or malfunctions of the system after either Party has been notified and has had reasonable time to repair, shall in no event exceed an amount equivalent to any charges made for the service affected for the period following notice from the other Party until service is restored.
- 9.2** SBC-13STATE is not liable for the accuracy and content of Host Record Template that AWS delivers to SBC-13STATE. AWS is responsible for maintaining the accuracy and content of that data as delivered; and SBC-13STATE shall not be responsible for inaccurate or incomplete information provided by AWS for SBC-13STATE's 9-1-1 databases and with respect to inaccurate or incomplete information and AWS shall indemnify and hold SBC-13STATE harmless from any and all losses incurred on account thereof by third parties (including AWS's Customers or employees). In addition and except as otherwise provided herein, SBC-13STATE's liability to AWS and any third person shall also be limited to the maximum extent permitted by Applicable Law or tariff.
- 9.3** **Consequential Damages.** In no event shall a Party have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, including loss of anticipated profits or revenue or other economic loss, in connection with or arising from anything said, omitted or done hereunder, including but not limited to, lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or any accessories attached thereto, delay, error, or loss of data (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages; provided that the foregoing shall not limit a Party's obligation under Section 7 to indemnify, defend and hold the other Party harmless against any amounts payable to a third person, including any losses, costs, fines, penalties, criminal or civil judgments or settlements, expenses (including attorneys' fees) and Consequential Damages of such third person.
- 9.4** **Remedies.** Except as expressly provided herein, no remedy set forth in this Agreement is intended to be exclusive and each and every remedy shall be cumulative and in addition to any other rights or remedies now or hereafter existing under Applicable Law or otherwise.

10. Billing.

10.1 Billing. SBC-13STATE will bill all applicable charges, at the rates set forth in Pricing Exhibit, for the services provided by SBC-13STATE to AWS in accordance with this Section 10.

10.2 Payment Of Charges. Subject to the terms of this Agreement, AWS will pay SBC-13STATE within thirty (30) calendar days from the date of the postmark on the invoice envelope (the "Bill Due Date"). If the Bill Due Date is on a day other than a Business Day, payment will be made on the next Business Day. Payments shall be made in U.S. Dollars. Within thirty (30) days of the Effective Date, SBC-13STATE shall provide AWS the name and address to whom payments should be made payable. If such payment information changes, SBC-13STATE shall provide AWS at least sixty (60) days' prior written notice of the change and such notice shall include the new payment information. If AWS receives multiple invoices which are payable on the same date, AWS may remit one payment for the sum of all amounts payable to SBC-13STATE's bank. Each Party shall provide the other Party with a contact person for the handling of payment questions or problems.

10.3 Adjustments.

10.3.1 SBC-13STATE shall promptly reimburse or credit AWS for any charges that should not have been billed to AWS as provided in this Agreement. Such reimbursements shall be set forth in the appropriate section of the invoice.

10.3.2 SBC-13STATE shall bill AWS for any charges that should have been billed to AWS as provided in this Agreement, but have not been billed to AWS ("Underbilled Charges"); provided, however, that, except as provided in Section 11, SBC-13STATE shall not bill for Underbilled Charges which were incurred more than one (1) year prior to the date that SBC-13STATE transmits a bill for any Underbilled Charges.

10.4 Late Payment Fee. Any amount not paid when due shall be subject to a late payment fee equal to the lesser of (i) interest at the rate of one and one-half percent (1½%) per month and (ii) the highest rate of interest that may be charged under Applicable Law.

10.5 Surcharges. SBC-13STATE shall not be responsible to collect and submit to any applicable governing body wireless 9-1-1 surcharges that may be assessed upon AWS or its customers. The foregoing notwithstanding, any such surcharges AWS may be required to pay shall be subject to Applicable Law and not this Agreement.

11. Audit Rights, Disputed Amounts And Dispute Resolution.

11.1 Audit Rights.

11.1.1 Subject to the restrictions set forth in Section 28 and except as may be otherwise specifically provided in this Agreement, a Party (“Auditing Party”) may audit the other Party’s (“Audited Party”) books, records, data and other documents, as provided herein, once annually (commencing on E9-1-1 Effective Date) for the purpose of evaluating the accuracy of Audited Party’s billing and invoicing of the services provided hereunder. The scope of the audit shall be limited to the period which is the shorter of (i) the period subsequent to the last day of the period covered by the Audit which was last performed (or if no audit has been performed, the E9-1-1 Service Effective Date) and (ii) the twelve (12) month period immediately preceding the date the Audited Party received notice of such requested audit, but in any event not prior to the Service Start Date. Such audit shall begin no fewer than thirty (30) days after Audited Party receives a written notice requesting an audit and shall be completed no later than thirty (30) days after the start of such audit. Such audit shall be conducted by an independent auditor. The independent auditor shall be acceptable to both Parties. The Parties shall select an auditor by the thirtieth (30th) day following Audited Party’s receipt of a written audit notice. Auditing Party shall cause the independent auditor to execute a nondisclosure agreement in a form agreed upon by the Parties. Notwithstanding the foregoing, an Auditing Party may audit Audited Party’s books, records and documents more than once annually if the previous audit found previously uncorrected net variances or errors in invoices in Audited Party’s favor with an aggregate value of at least two percent (2%) of the amounts payable by Auditing Party for audited services provided during the period covered by the audit.

11.1.2 Each audit shall be conducted on the premises of the Audited Party during normal business hours. Audited Party shall cooperate fully in any such audit and shall provide the independent auditor reasonable access to any and all appropriate Audited Party employees and books, records and other documents reasonably necessary to assess the accuracy of Audited Party’s bills. Each Party shall maintain reports, records and data relevant to the billing of any services that are the subject matter of this Agreement for a period of not less than eighteen (18) months after creation thereof, unless a longer period is required by Applicable Law.

11.1.3 If any audit confirms any overcharge, then Audited Party shall for any overpayment promptly correct any billing error, including making refund of any overpayment by Auditing Party plus interest at the rate set forth in

Section 10.4. The Audited Party shall pay interest on the amount of the overpayment for the period from the date of the error to the date the Audit commences. The foregoing notwithstanding, interest shall not accrue on any overpayment for a period more than twelve (12) months prior to the commencement of the Audit. If any audit confirms any undercharge, then Audited Party shall for any undercharge caused by the actions of or failure to act by the Audited Party immediately compensate Auditing Party for such undercharge.

11.1.4 Audits shall be at Auditing Party's expense, subject to reimbursement by Audited Party in the event that an audit finds, and the Parties subsequently verify, adjustment in the charges or in any invoice paid or payable by Auditing Party hereunder by an amount that is greater than two percent (2%) of the aggregate charges for the audited services during the period covered by the audit.

11.1.5 Any disputes concerning audit results shall be referred to the Parties' respective responsible personnel for informal resolution. If these individuals cannot resolve the dispute within thirty (30) days of the referral, either Party may request in writing that an additional audit shall be conducted by an independent auditor acceptable to both Parties, subject to the requirements set out in Section 11.1.1. Any additional audit shall be at the requesting Party's expense.

11.2 Disputed Amounts.

11.2.1 If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Billed Party") shall, prior to the next Bill Due Date, give written notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such written notice the specific details and reasons for disputing each item; provided, however, a failure to provide such notice by that date shall not preclude a Billed Party from subsequently challenging billed charges. The Billed Party shall pay when due all amounts to the Billing Party provided, however, that the Billed Party may withhold from payment any Disputed Amounts. Notwithstanding the foregoing, except as provided in Section 11.1, a Party shall be entitled to dispute only those charges for which the Bill Due Date was within the immediately preceding twelve (12) months of the date on which the other Party received notice of such Disputed Amounts.

11.2.2 Such Disputed Amounts shall be subject to interest as set forth in Section 10.4.

11.2.3 When a billing dispute is resolved in favor of the Billed Party the following will occur within thirty (30) days:

- (i) Payments made in excess of the amount found to be due will be reimbursed by the Billing Party.

11.2.4 When a billing dispute is resolved in favor of the Billing Party the following will occur within thirty (30) days:

- (i) Any amounts not paid but found to be due will be paid to the Billing Party.
- (ii) Interest at the rate and in the manner provided in Section 184 will be paid by the Billed Party on any amount not paid and found to be due according to the dispute resolution provisions of this Agreement.

11.2.5 If the Parties are unable to resolve the issues related to the Disputed Amounts in the normal course of business within forty-five (45) days after delivery to the Billing Party of notice of the Disputed Amounts, each of the Parties shall appoint a designated representative who has authority to settle the Disputed Amounts and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Disputed Amounts and negotiate in good faith in an effort to resolve such Disputed Amounts. The specific format for such discussions will be left to the discretion of the designated representatives, however all reasonable requests for relevant information made by one Party to the other Party shall be honored.

11.2.6 If the Parties are unable to resolve issues related to the Disputed Amounts within thirty (30) days after the Parties' appointment of designated representatives pursuant to Section 11.3, the issue shall be resolved in accordance with Section 11.5 of this Agreement.

11.2.7 The Parties agree that all negotiations pursuant to this Section 9.2 shall remain confidential in accordance with Section 32 and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.

11.3 Dispute Escalation and Resolution. Except as otherwise provided herein, any dispute, controversy or claim (individually and collectively, a "Dispute") arising under this Agreement shall be resolved in accordance with the procedures set forth in this Section 11.3. In the event of a Dispute between the Parties relating to this Agreement and upon the written request of either Party, each of the Parties shall appoint within five (5) Business Days after a Party's receipt of such request a

designated representative who has authority to settle the Dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Dispute and negotiate in good faith in an effort to resolve such Dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however, all reasonable requests for relevant information made by one Party to the other Party shall be honored. If the Parties are unable to resolve issues related to a Dispute within thirty (30) days after the Parties' appointment of designated representatives as set forth above, the parties shall arbitrate the Dispute as provided in Section 11.5. Notwithstanding the foregoing, in no event shall the Parties permit a pending Dispute to disrupt service to any AWS Customer or SBC-13STATE Customer.

11.4 Equitable Relief. Notwithstanding the foregoing, this Section shall not be construed to prevent either Party from seeking and obtaining temporary equitable remedies, including temporary restraining orders, if, in its judgment, such action is necessary to avoid irreparable harm. Despite any such action, the Parties will continue to participate in good faith in the dispute resolution procedures described in this Section.

11.5 Arbitration. If the negotiations referenced in Section 11.3 do not resolve the Dispute within thirty (30) Business Days of the initial written request, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association except that the Parties may select an arbitrator outside American Arbitration Association rules upon mutual agreement. The arbitrator shall be familiar with telecommunications issues. A Party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may submit in writing to a Party, and that Party shall so respond to, a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce documents, or requests for admission. Each Party is also entitled to take the oral deposition of one individual of another Party. Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within sixty (60) Business Days of the demand for arbitration. The arbitration shall be held in a mutually agreeable city. The arbitrator shall control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) Business Days after the close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

If the issue to be resolved through the negotiations referenced in Section 11.3 directly and materially affects service to either Party's end user customers, then the period of resolution of the dispute through negotiations before the dispute is to be submitted to binding arbitration shall be five (5) Business Days. Once such a service-affecting dispute is submitted to arbitration, the arbitration shall be conducted pursuant to the expedited procedures rules of the Commercial Arbitration Rules of the American Arbitration Association (i.e., rules 53 through 57).

Each Party shall bear its own costs of these procedures. The Parties shall equally split the fees of the arbitration and the arbitrator.

12. Regulatory Changes.

The terms and conditions of this Agreement shall be subject to any and all Applicable Laws, rules, or regulations that subsequently may be prescribed by any federal, state or local governmental authority. To the extent required by any such subsequently prescribed law, rule, or regulation, the Parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, or regulation. This Agreement shall at all times be subject to changes, modifications, orders, and rulings by the FCC and/or the Commission to the extent the substance of this Agreement is or becomes subject to the jurisdiction of such agency. The Parties agree that the terms and conditions of this Agreement were composed in order to effectuate the legal requirements in effect at the time the Agreement was produced. Any final modifications to those requirements will be deemed to automatically supercede any terms and conditions of this Agreement.

13. Commission.

Upon execution by the Parties, either Party may file this Agreement with the appropriate Commission in the state in which service is being or may be provided under this Agreement and either party may, upon such filing, seek the approval of such Commission regarding the terms and conditions of this Agreement ("Commission Proceeding"). The foregoing notwithstanding, neither this Agreement nor a Party's participation in a Commission Proceeding shall be deemed or construed as an admission or acknowledgment by either party that:

- (1) the Commission has authority or jurisdiction under the Act or other law to arbitrate, consider or approve the terms and conditions of this Agreement; or
- (2) the terms and conditions of this Agreement are subject to or governed by any of the provisions of section 251 and 252 the Act.

Notwithstanding this Agreement or participation in a Commission Proceeding, the Parties expressly reserve the right to assert or contest (i) the jurisdiction of the Commission in

connection with this Agreement; or (ii) the applicability of sections 251 and 252 of the Act to this Agreement.

14. Authorization.

14.1 SBC-13STATE is a corporation duly organized, validly existing and in good standing under the laws of the States covered by this Agreement. SBC-13STATE has full power and authority to execute and deliver this Agreement and to perform the obligations hereunder.

14.2 AWS is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. AWS represents and warrants to SBC-13STATE that it is a licensed provider of CMRS and is authorized to provide the services contemplated hereunder in the States covered by this Agreement.

15. Independent Contractor.

Each Party shall perform services hereunder as an independent contractor and nothing herein shall be construed as creating any other relationship between the Parties. Each Party shall be responsible for payment of taxes, including federal, state and municipal taxes, chargeable or assessed with respect to its employees, such as social security, unemployment, workers' compensation, disability insurance, and federal and state withholding. Each Party shall indemnify the other for any loss, damage, liability, claim, demand, or penalty that may be sustained by reason of its failure to comply with this provision.

16. Force Majeure.

No Party shall be responsible for delays or failures in performance of any part of this Agreement (other than an obligation to make money payments) resulting from acts or occurrences beyond the reasonable control of such Party, including acts of nature, acts of civil or military authority, any law, order, regulation, ordinance of any government or legal body, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failures, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation (individually or collectively, a "Force Majeure Event") or any other circumstances beyond the Party's reasonable control. If a Force Majeure Event shall occur, the Party affected shall give prompt notice to the other Party of such Force Majeure Event specifying the nature, date of inception and expected duration of such Force Majeure Event, whereupon such obligation or performance shall be suspended to the extent such Party is affected by such Force Majeure Event during the continuance thereof or be excused from such performance depending on the nature, severity and duration of such Force Majeure Event

(and the other Party shall likewise be excused from performance of its obligations to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable efforts to avoid or remove the cause of nonperformance and the Parties shall give like notice and proceed to perform with dispatch once the causes are removed or cease.

17. Governing Law.

This Agreement shall be governed by and construed in accordance with federal law and the domestic laws of the state where the E9-1-1 Services are provided or the facilities reside and shall be subject to the jurisdiction of the courts therein.

18. Taxes.

18.1 Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted by Applicable Law to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to provide in a timely manner said resale tax exemption certificate will result in no exemption being available to the purchasing Party for any charges invoiced prior to the date such exemption certificate is furnished. To the extent that a Party includes gross receipts taxes in any of the charges or rates of services provided hereunder, no additional gross receipts taxes shall be levied against or upon the purchasing Party.

18.2 The Party obligated to pay any such taxes may contest the same in good faith, at its own expense, and shall be entitled to the benefit of any refund or recovery; provided that such contesting Party shall not permit any lien to exist on any asset of the other Party by reason of such contest. The Party obligated to collect and remit shall cooperate in any such contest by the other Party. As a condition of contesting any taxes due hereunder, the contesting Party agrees to be liable and indemnify and reimburse the other Party for any additional amounts that may be due by reason of such contest, including any interest and penalties.

19. Non-Assignment.

Neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third person without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided that each Party may assign or transfer this Agreement to an Affiliate by providing prior written notice to the other Party of such assignment or transfer; provided, further, that such assignment is not inconsistent with Applicable Law or the terms and conditions of this Agreement. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and any assignment hereunder shall be conditioned upon the written assumption by the assignee of the rights, obligations and duties of the Assigning Party.

20. Non-Waiver.

No waiver of any provision of this Agreement shall be effective unless the same shall be in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed. Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.

21. Notices.

Notices given by one Party to the other Party under this Agreement shall be in writing (unless specifically provided otherwise herein) and unless otherwise specifically required by this Agreement to be delivered to another representative or point of contact, shall be (a) delivered personally, (b) delivered by express delivery service, (c) mailed, certified mail or first class U.S. mail postage prepaid, return receipt requested or (d) upon prior immediate oral agreement of the parties' designated recipients identified below, delivered by facsimile; provided that a confirmation copy is sent by the method described in (a), (b) or (c) of this Section 21, to the following addresses of the Parties:

To AWS:

Jill Mounsey
Director
AT&T Wireless Services, Inc.
7277 164th Avenue N.E.
Redmond, WA 98073-9761
Facsimile: 425-580-8609

With a copy to:

Smith, Majcher & Mudge, L.L.P.
816 Congress Ave., Suite 1270
Austin, Texas 78701
Facsimile: 512-322-9020

To SBC-13STATE:

Contract Administration
ATTN: Notices Manager
311 S. Akard St., 9th Floor
Four SBC Plaza
Dallas, TX 75202-5398
Facsimile: 214-464-2006

or to such other address as either Party shall designate by proper notice. Notices will be deemed given as of the earlier of (i) the date of actual receipt, (ii) the next Business Day when notice is sent via express mail or personal delivery, (iii) three (3) days after mailing in the case of first class or certified U.S. mail or (iv) on the date set forth on the confirmation in the case of facsimile or the next business day if the facsimile is delivered after 5:00 p.m.

22. Publicity And Use Of Trademarks Or Service Marks.

Neither Party nor its subcontractors or agents shall use the other Party's trademarks, service marks, logos or other proprietary trade dress in any advertising, press releases, publicity matters or other promotional materials without such Party's prior written consent, except as permitted by Applicable Law.

23. No Third Party Beneficiaries; Disclaimer of Agency.

Except as may be specifically set forth in this Agreement, this Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein express or implied shall create or be construed to create any third-party beneficiary rights hereunder. Nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. No Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

24. No License.

No license under patents, copyrights or any other Intellectual Property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

25. Compliance With Applicable Law.

Each Party shall comply at its own expense with all applicable federal, state, and local statutes, laws, rules, regulations, codes, final and nonappealable orders, decisions, injunctions, judgments, awards and decrees (collectively, “Applicable Law”) that relate to its obligations under this Agreement. Nothing in this Agreement shall be construed as requiring or permitting either Party to contravene any mandatory requirement of Applicable Law.

26. Necessary Approvals.

Each Party shall be responsible for obtaining and keeping in effect all approvals from, and rights granted by, governmental authorities, building and property owners, and any other persons that may be required in connection with the performance of its obligations under this Agreement. Each Party shall reasonably cooperate with the other Party in obtaining and maintaining any required approvals and rights for which such Party is responsible.

27. Responsibility To End-Users.

Each Party is solely responsible to its End-Users for the services it provides to such End-Users.

28. Proprietary Information.

28.1 Definition of Proprietary Information.

28.1.1 “Proprietary Information” means:

- 28.1.1.1** all proprietary or confidential information of a Party (a “Disclosing Party”) including specifications, drawings, sketches, business information, forecasts, records (including each Party’s records regarding Performance Benchmarks), customer proprietary network information, customer usage data, audit information, models, samples, data, system interfaces, computer programs and other software and documentation that is furnished or made available or otherwise disclosed to the other Party or any of such other Party’s Affiliates (individually and collectively, a “Receiving Party”)

pursuant to this Agreement and, if written, is marked “Confidential” or “Proprietary” or by other similar notice or if oral or visual, is either identified as “Confidential” or “Proprietary” at the time of disclosure or is summarized in a writing so identified and delivered to the Receiving Party within ten (10) days of such disclosure; and

28.1.1.2 any portion of any notes, analyses, data, compilations, studies, interpretations or other documents prepared by any Receiving Party to the extent the same contain, reflect, are derived from, or are based upon, any of the information described in subsection 28.1.1.1 above, unless such information contained or reflected in such notes, analyses, etc. is so commingled with the Receiving Party’s information that disclosure could not possibly disclose the underlying proprietary or confidential information (such portions of such notes, analyses, etc. referred to herein as “Derivative Information”).

28.1.2 The Disclosing Party will use its reasonable efforts to follow its customary practices regarding the marking of tangible Proprietary Information as “confidential,” “proprietary,” or other similar designation. The Parties agree that the designation in writing by the Disclosing Party that information is confidential shall mean that such information is “Proprietary Information”.

28.1.3 Notwithstanding the requirements of this Section, all information relating to the Customers of a Party, including information that would constitute Customer proprietary network information of a Party pursuant to the Act and FCC rules and regulations, and customer usage data, whether disclosed by one Party to the other Party or otherwise acquired by a Party in the course of the performance of this Agreement, shall be deemed “Proprietary Information.”

28.2 Disclosure and Use.

28.2.1 Each Receiving Party agrees that from and after the Effective Date:

28.2.1.1 all Proprietary Information shall be and shall remain the exclusive property of the Party that provides or creates that information;

28.2.1.2 all Proprietary Information communicated, whether before, on or after the Effective Date, to it or any of its employees, agents, contractors and consultants (collectively, “Representatives”) shall be held in confidence to the same extent as such Receiving Party holds its own confidential information;

provided that such Receiving Party or Representative shall not use less than a reasonable standard of care in maintaining the confidentiality of such information;

28.2.1.3 it will not, and it will not permit any of its Representatives, to disclose such Proprietary Information to any third person;

28.2.1.4 it will disclose Proprietary Information only to those of its Representatives who have a need for it in connection with the use or provision of services required to fulfill this Agreement;

28.2.1.5 not to copy, publish, or disclose such Proprietary Information to others or authorize anyone else to copy, publish, or disclose such Proprietary Information to others without the prior written approval of the Disclosing Party; and

28.2.1.6 to use such Proprietary Information only for purposes of fulfilling work or services performed hereunder and for other purposes only upon such terms as may be agreed upon between the Parties in writing.

28.2.2 A Receiving Party may disclose Proprietary Information of a Disclosing Party to its Representatives who need to know such information to perform their obligations under this Agreement; provided that before disclosing any Proprietary Information to any Representatives, such Party shall notify such Representative of such person's obligation to comply with this Agreement. Any Receiving Party so disclosing Proprietary Information shall be responsible for any breach of this Agreement by any of its Representatives and such Receiving Party agrees, at its sole expense, to use its reasonable efforts (including court proceedings) to restrain its Representatives from any prohibited or unauthorized disclosure or use of the Proprietary Information. Each Receiving Party making such disclosure shall notify the Disclosing Party as soon as possible if it has knowledge of a breach of this Agreement in any material respect. A Disclosing Party shall not disclose Proprietary Information directly to a Representative of the Receiving Party without the prior written authorization of the Receiving Party.

28.2.3 Proprietary Information shall not be reproduced by any Receiving Party in any form except to the extent (i) necessary to comply with the provisions of this Section and (ii) reasonably necessary to perform its obligations under this Agreement. All such reproductions shall bear the same copyright and proprietary rights notices as are contained in or on the original.

28.2.4 This Section shall not apply to any Proprietary Information which the

Receiving Party can establish to have:

- 28.2.4.1** been disclosed by the Receiving Party with the Disclosing Party's prior written consent;
- 28.2.4.2** become generally available to the public other than as a result of disclosure by a Receiving Party;
- 28.2.4.3** been independently developed by a Receiving Party by an individual who has not had knowledge of or direct or indirect access to such Proprietary Information;
- 28.2.4.4** been rightfully obtained by the Receiving Party from a third person without knowledge that such third person is obligated to protect its confidentiality; provided that such Receiving Party has exercised commercially reasonable efforts to determine whether such third person has any such obligation; or
- 28.2.4.5** been obligated to be produced or disclosed by Applicable Law; provided that such production or disclosure shall have been made in accordance with Section 32.3.

28.3 Government Disclosure.

- 28.3.1** If a Receiving Party is required by subpoena or other process issued by a court or administrative agency having appropriate jurisdiction to disclose any Proprietary Information, then such Receiving Party shall provide the Disclosing Party with written notice of such requirement as soon as possible and prior to such disclosure. Upon receipt of written notice of the requirement to disclose Proprietary Information, the Disclosing Party, at its expense, may then either seek appropriate protective relief in advance of such requirement to prevent all or part of such disclosure or waive the Receiving Party's compliance with this Section 28.3 with respect to all or part of such requirement.
- 28.3.2** The Receiving Party shall use all commercially reasonable efforts to cooperate with the Disclosing Party in attempting to obtain any protective relief which such Disclosing Party chooses to seek pursuant to this Section 28.3. In the absence of such relief, if the Receiving Party is legally compelled to disclose any Proprietary Information, then the Receiving Party shall exercise all commercially reasonable efforts to preserve the confidentiality of the Proprietary Information, including cooperating with the Disclosing Party to obtain an appropriate order or other reliable assurance that confidential treatment will be accorded the Proprietary Information.

28.4 Ownership.

- 28.4.1** All Proprietary Information, other than Derivative Information shall remain the property of the Disclosing Party, and all documents or other tangible media delivered to the Receiving Party that embody such Proprietary Information shall be, at the option of the Disclosing Party, either promptly returned to Disclosing Party or destroyed, except as otherwise may be required from time to time by Applicable Law (in which case the use and disclosure of such Proprietary Information will continue to be subject to this Agreement), at the request of the Disclosing Party.
- 28.4.2** At the request of the Disclosing Party, any Derivative Information shall be, at the option of the Receiving Party, either promptly returned to the Disclosing Party or destroyed, except as otherwise may be required from time to time by Applicable Law (in which case the use and disclosure of such Derivative Information will continue to be subject to this Agreement).
- 28.4.3** The Receiving Party may at any time either return the Proprietary Information to the Disclosing Party or destroy such Proprietary Information. If the Receiving Party elects to destroy Proprietary Information, all copies of such information shall be destroyed and upon the written request of the Disclosing Party, the Receiving Party shall provide to the Disclosing Party written certification of such destruction. The destruction or return of Proprietary Information shall not relieve any Receiving Party of its obligation to treat such Proprietary Information in the manner required by this Agreement.
- 28.4.4** The obligation of confidentiality and use with respect to Proprietary Information disclosed by one Party to the other shall survive any termination of this Agreement for a period of three (3) years from the date of the initial disclosure of the Proprietary Information.

29. Termination Upon Sale.

Notwithstanding anything to the contrary contained herein, a Party may terminate this Agreement as to a specific operating area or portion thereof of such Party if such Party sells or otherwise transfers the area or portion thereof. The Party shall provide the other Party with at least ninety (90) calendar days' prior written notice of such termination, which shall be effective on the date specified in the notice. Notwithstanding termination of this Agreement as to a specific operating area, this Agreement shall remain in full force and effect in the remaining operating areas.

30. Amendments.

Any amendment, modification, or supplement to this Agreement must be in writing and signed by an authorized representative of each Party. The term “this Agreement” shall include future amendments, modifications, and supplements.

31. Use of Third Party Contractors.

The Parties may enter into subcontracts with third parties, including AWS Affiliates, for the performance of any of their duties and obligations under this Agreement.

32. Good Faith Performance.

In the performance of their obligations under this Agreement, the Parties shall act in good faith. In situations in which notice, consent, approval or similar action by a Party is permitted or required by any provision of this Agreement, such action shall not be unreasonably delayed, withheld or conditioned.

33. Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.

34. Rule of Construction.

No rule of construction requiring interpretation against the drafting party hereof shall apply in the interpretation of this Agreement.

35. Severability.

If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be unenforceable, the rest of the Agreement shall remain in full force and effect and shall not be affected unless removal of that provision results in a material change to this Agreement. If a material change as described in this paragraph occurs as a result of action by a court or regulatory agency, the Parties shall negotiate in good faith for replacement language. If replacement language cannot be agreed upon within a reasonable period, either Party may terminate this Agreement without penalty or liability for such termination upon written notice to the other Party. Notwithstanding such termination, the terms and conditions of this Agreement shall continue in effect until replaced by another agreement covering the same subject matter.

36. Entire Agreement.

The terms contained in this Agreement and any Exhibits, and other documents or instruments referred to herein, which are incorporated into this Agreement by this reference, constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior 911 agreements, understandings, proposals and other communications, oral or written. Specifically, the Parties expressly acknowledge that the rates, terms and conditions of this Agreement shall supersede those existing arrangements of the Parties, if any, whether set forth in a stand-alone agreement or as an appendix or attachment to an interconnection agreement. Neither Party shall be bound by any terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications. This Agreement may only be modified by a writing signed by an officer of each Party.

37. Counterpart Original.

This Agreement may be executed in counterpart originals which, when executed by parties, such counterparts shall constitute the Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

AT&T WIRELESS SERVICES, INC.

Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated d/b/a Ameritech Indiana, Michigan Bell Telephone Company d/b/a Ameritech Michigan, The Ohio Bell Telephone Company, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company, The Southern New England Telephone Company, Wisconsin Bell Inc. d/b/a Ameritech Wisconsin, Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company by SBC Telecommunications, Inc., its authorized agent

By: _____

By: _____

Name: Eric Updyke

Name: _____

Vice President

Title: _____

Date: _____

Date: _____

PRICING EXHIBIT

1.0 PACIFIC REGION WIRELESS E9-1-1:

1.1 NEVADA

Trunk Charge Per Trunk:

Monthly Recurring: \$ 8.00

Non-Recurring \$ 175.07

DS-1 facility charges can be found in the Nevada Special Access Tariff C PUCN No. C7-A, Section 7.

1.2 CALIFORNIA

Trunk Charge per Trunk:

Monthly \$ 26.00

Non-Recurring \$ 741.00

DS-1 facility charges can be found in the California Special Access Tariff, PUC#175T, Section 7.

2.0 AMERITECH REGION WIRELESS E9-1-1:

2.1 ILLINOIS

Trunk Charge per Trunk:

Monthly \$ 19.99

Non-Recurring \$ 610.45

DS-1 facility charges can be found in the Illinois ICC Tariff No. 21, Section 7.

2.2 INDIANA

Trunk Charge per Trunk:

Monthly \$ 26.64

Non-Recurring \$ 770.97

DS-1 facility charges can be found in the Indiana IURC Tariff, No. 20, Part 21, Section 1.

2.3 MICHIGAN

Trunk Charge per Trunk:

Monthly \$ 19.81

Non-Recurring \$ 496.18

DS-1 facility charges can be found in the Michigan MPSC Tariff No. 20, Part 21, Section 1.

2.4 OHIO

Trunk Charge per Trunk:

Monthly \$ 28.72

Non-Recurring \$ 436.62

DS-1 facility charges can be found in the OHIO PUC Tariff No. 20, Part 21, Section 1.

2.5 WISCONSIN

Trunk Charge per Trunk:

Monthly \$ 26.29

Non-Recurring \$ 737.59

DS-1 facility charges can be found in the Wisconsin PSCW Tariff No. 2, Section 7.

3.0 SOUTHWESTERN BELL REGION WIRELESS E9-1-1:

3.1 ARKANSAS

Trunk Charge per Trunk:

Monthly \$ 22.86

Non-Recurring \$ 312.00

DS-1 facility charges can be found in the Arkansas Intrastate Access Tariff, Section 7.

3.2 KANSAS

Trunk Charge per Trunk:

Monthly \$ 22.86

Non-Recurring \$ 312.00

DS-1 facility charges can be found in the Kansas Intrastate Access Tariff, Section 7.

3.3 MISSOURI

Trunk Charge per Trunk:

Monthly \$ 58.00

Non-Recurring \$ 170.00

DS-1 facility charges can be found in the Missouri Intrastate Access Tariff, PSC #36, Section 7.

3.4 OKLAHOMA

Trunk Charge per Trunk:

Monthly \$ 33.22

Non-Recurring \$ 110.00

DS-1 facility charges can be found in the Oklahoma Intrastate Access Tariff, Section 7.

3.5 TEXAS

Trunk Charge per Trunk:

Monthly \$ 39.00

Non-Recurring \$ 165.00

DS-1 facility charges can be found in the Texas Intrastate Access Tariff, Section 7.

4.0 SNET REGION WIRELESS E9-1-1:

Trunk Charge per Trunk:

Monthly	\$ 14.39
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Non-Recurring	\$ 0.00
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DS-1 facility charges can be found in the Connecticut Special Access Tariff [need reference.]

DEFINITIONS EXHIBIT

“9-1-1 Attendant” means the PSAP operator receiving a 9-1-1 Call.

“9-1-1 Call(s)” means a call made by an AWS Wireless End User by dialing "9-1-1" (and, as necessary, pressing the "Send" or analogous transmitting button) on a Wireless Handset.

“Act” means the Communications Act of 1934, 47 U.S.C. Secs 151 *et seq.*, as amended by the Telecommunications Act of 1996, and as interpreted from time to time in the duly authorized rules, regulations and Orders of the FCC and as further interpreted in any final court decision of such rules, regulations and Orders.

“ALI Database Steering” is a capability where the initial ALI query (using an ESRK) to a SBC-13STATE controlled ALI Database is forwarded to a non-SBC-13STATE controlled ALI Database for the purpose of retrieving the Phase I or Phase II data.

“Applicable Law” shall mean all laws, statutes, common law, regulations, ordinances, codes, rules, guidelines, orders, permits, and approvals of any governmental authority, which apply or relate to the subject matter of this Agreement.

“Automatic Location Identification” or **“ALI”** means the appropriate location data stored in the 9-1-1 Selective Router/ALI Database, which is sufficient to implement Phase I or Phase II wireless E9-1-1 service.

“Automatic Location Identification Database” or **“ALI Database”** means a database containing the appropriate Phase I or Phase II data. The information contained in the database includes those elements necessary for the database to recognize an AWS ESRK and route a data query appropriately. For purposes of this Agreement, reference to a SBC-13STATE ALI Database will also refer, as appropriate, to any E9-1-1 Gateway or other portal that SBC-13STATE establishes for Phase II connectivity. For purposes of this Agreement, reference to a non-SBC-13STATE ALI Database will also refer, as appropriate, to a SCP or MPC.

“AWS Wireless End User” means any person or entity receiving service on an AWS Wireless System.

“AWS Wireless System” means those mobile switching facilities, Cell Sites and other facilities that are controlled by AWS to provide CMRS service in an MTA.

“Business Day” shall mean Monday through Friday, except for holidays on which the U.S. mail is not delivered.

“CAMA” means Centralized Automatic Message Accounting.

“Call Back Number” means the MIN or MDN, whichever is applicable, of an AWS Wireless End User who has made a 9-1-1 Call, which may be used by the PSAP to call back the AWS Wireless End User if a 9-1-1 Call is disconnected, to the extent that it is a valid, dialable number.

“Call path Associated Signaling” or “CAS” means a wireless 9-1-1 solution set that utilizes the voice transmission path to also deliver the Mobile Directory Number (MDN) and the caller’s location to the PSAP.

“Cell Sector” means a geographic area defined by AWS (according to AWS’s own radio frequency coverage data), and consisting of a certain portion or all of the total coverage area of a Cell Site.

“Cell Sector Identifier” means the unique alpha or alpha-numeric designation given to a Cell Sector that identifies that Cell Sector.

“Cell Site” means the AWS fixed radio transmitting and receiving facilities associated with the origination and termination of wireless traffic from/to an AWS Wireless End User.

“Cell Site/Sector Information” means information that indicates to the receiver of the information the Cell Site location receiving a 9-1-1 Call made by an AWS Wireless End User, and which may also include additional information regarding a Cell Sector.

“DS-0” is a digital signal rate of 64 Kilobits Per Second (“Kbps”).

“E2+” means the E2+ (or Plus) interface as described in TIA/EIA/J-STD-036 as the real-time interface between an Emergency Services Message Entity (ESME), or ALI Database, and the MPC/GMLC used in determining the geographic location of a mobile subscriber, during a 911 call.

“E9-1-1 Service” provides the functionality of routing 9-1-1 Calls and the appropriate Phase I or Phase II data to the appropriate Public Safety Answering Point through the use of an ALI Database and other databases.

“Emergency Service Routing Digits” or “ESRD” is a digit string that uniquely identifies a base station, cell site, or sector that may be used to route emergency calls through the network in other than an NCAS environment.

“Emergency Services” means police, fire, ambulance, rescue, and medical services.

“Emergency Services Routing Key” or “ESRK” is a ten-digit number translated from a Cell Sector Identifier at the SCP that is used by a Selective Router to route the E9-1-1 Call to the appropriate PSAP. The ESRK is also the search-key from a PSAP query to an ALI Database for a Host ALI Record with a matching ESRK in an NCAS solution. For non-NCAS solutions, a reference to ESRK also applies to ESRD.

“Host ALI Record” is a shell or template record that contains static information and/or blank fields, some of which may be overwritten by dynamic Phase I or Phase II wireless caller information from the SCP, MPC, or GMLC in response to a host ALI query.

“Mobile Directory Number” or “MDN” means a 10-digit dialable directory number used to call a Wireless Handset.

“Mobile Identification Number” or “MIN” means a 10-digit number assigned to and stored in a Wireless Handset.

“MPC” means the Mobile Positioning Center software that resides on the SCP database and is responsible in a Phase II implementation for the E9-1-1 functions as described in the SCP definition, such as the assignment of ESRK and selection of the appropriate position determining equipment for determining Phase II locations of 9-1-1 calls.

“Party” means SBC-13STATE or AT&T Wireless Services, Inc. (AWS), both collectively referred to as the “Parties”.

“Phase I Data” includes but is not limited to the Call Back Number, ESRK, and the Cell Site/Sector Information.

“Phase II Data” includes but is not limited to the Call Back Number, ESRK, and the location of the 9-1-1 Call by longitude and latitude in conformance with the relevant FCC Phase II accuracy requirements.

“Public Safety Answering Point” or “PSAP” means a communications facility established as answering location for 9-1-1 Calls originating in a given service area. A “Designated PSAP” means the PSAP designated to receive a 9-1-1 Call based upon the geographic location of the Cell Site. A “Default PSAP” is the PSAP designated to receive a 9-1-1 Call in the event the Selective Router is unable to determine the Designated PSAP. The “Alternate PSAP” is the PSAP that may receive a 9-1-1 Call in the event the Designated PSAP is unable to receive the 9-1-1 call.

“SBC Communications, Inc.” (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company d/b/a Ameritech Michigan, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company, and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.

“Selective Router” means the SBC-13STATE switch equipped to provide E9-1-1 services. The Selective Router will route a 9-1-1 Call to the appropriate PSAP based on the ESRK assigned to the 9-1-1 call.

“Service Control Point” or “SCP” is the node in the AWS signaling network to which informational requests for service handling, such as routing and Phase II location requests, are directed and processed. The SCP is a real time database system that performs, among other functions, the assignment of an ESRK to a 9-1-1 Call based on the location of the Cell Sector from which a 9-1-1 Call originates and requests location information from the AWS network for a 9-1-1 Call that is routed by the SCP.

“Signaling System 7” or “SS7” means the signaling protocol, Version 7, of the CCS network, based upon American National Standards Institute ("ANSI") standards.

“Wireless Handset” means the wireless equipment used by a wireless end user to originate wireless calls or to receive wireless calls.